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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/611,358

06/30/2003

Santeri Paavolainen

540-017-003

2664

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07/14/2008

DRINKER BIDDLE & REATH  
ATTN: INTELLECTUAL PROPERTY GROUP  
ONE LOGAN SQUARE  
18TH AND CHERRY STREETS  
PHILADELPHIA, PA 19103-6996

EXAMINER

HARPER, KEVIN C

ART UNIT

PAPER NUMBER

2616

MAIL DATE

DELIVERY MODE

07/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/611,358	<b>Applicant(s)</b> PAAVOLAINEN, SANTERI	
	<b>Examiner</b> Kevin C. Harper	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5 and 22-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,22-28,30,31 and 33-38 is/are rejected.
- 7) ☒ Claim(s) 29 and 32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Response to Arguments***

Applicant's arguments filed March 14, 2008 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Wiget in view of Miller.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 33-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The computer code steps are considered method steps and do not have a tangible result because they are not run on a computer. Examiner notes that the claims recite "when ... run on a computer" or "is to make the computer execute" indicates that the computer code is not always being run or loaded in a computer. Examiner suggests making the claim limitations positive in executing on a computer (i.e., removing "when" from the claims). Further regarding claim 34, the program element is not stored in a computer readable medium.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 5, 23-24, 26-28, 30-31 and 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiget et al. (US 2004/0030804) in view of Miller et al. (US 2005/0100016).

2. Regarding claims 1, 23, 26-28, 30-31 and 33-38, Wiget discloses a method for handling a broadcast packet in a gateway computer (fig. 1a; fig. 4; para. 5) that has an IPsec connection (fig. 2) to logical network segment (note: VPN) where broadcast packets are distributed (para. 51). IPsec inherently specifies what kinds of packets are acceptable for transmission over an IPsec connection (para. 49-50). The method comprising encapsulating the broadcast packet into an acceptable form (para. 51; fig. 2), and transmitting the packet to the logical network segment through the connection (para. 51). Further regarding claim 30, the gateway computer is connected to host computers (fig. 1, ESx).

3. However, Wiget discloses multicasting packets (fig. 5, item 57; VPN ID) and does not disclose unicast transmitting data through the IPsec connection. Miller discloses unicasting packets related to a multicast address (para. 56). Further regarding claims 27, 30, 33-34 a computer has means for performing the method (fig. 2) where the computer has interfaces (figs. 1 and 3). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to unicast packets related to a multicast address in the invention of Wiget in order to properly send the data packet to each destination intended by the multicast address (Miller, para. 56).

4. Regarding claim 2, Wiget discloses encapsulating a broadcast packet into a multicast packet for transmission (fig. 5). However, Wiget does not disclose encapsulating a broadcast packet into several unicast packets. Miller discloses unicasting packets related to a multicast address (para. 56). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to duplicate unicast packets related to a multicast address in the invention of Wiget because one skilled in the art would recognize the predictable result that the unicast packets achieve proper routing to the related destinations of the multicast (see KSR Int'l Co. v. Teleflex Inc., 2007; Miller, para. 11, lines ; para. 22; para. 47, lines 7-15).

5. Regarding claims 5 and 24, in Wiget IPsec headers are added to the packet (fig. 2) to identify destinations and security features.

Claims 3 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiget in view of Miller as applied to claim 2 above, and further in view of Sylvain (US 7,286,467).

6. Regarding claims 3 and 25, Wiget in view of Miller does not disclose selecting a path from several paths to send a packet. Sylvain discloses selecting one path for one packet (col. 6, lines 62-67) where parallel paths lead to a destination. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to send one packet on one selected path in the invention of Wiget in view of Miller in order to balance the transmission load among the several parallel paths (Sylvain, col. 6, lines 62-67; note: load sharing).

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiget in view of Miller as applied to claim 1 above, and in view of Hill et al. (US 2003/0058274).

7. Wiget in view of Miller discloses checking connections to transfer a packet (Miller, para. 56), although the combination does not disclose sending the packet over an unprotected connection. Hill discloses transmitting secure packets and insecure packets (paras. 56 and 65). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to send insecured packets in the invention of Wiget in view of Miller in order to transmit packets to destinations requiring various levels of security (Hill, para. 44, lines 2-8 and paras. 59-60).

#### ***Allowable Subject Matter***

Claims 29 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost, can be reached at 571-272-7872. The centralized fax number for the Patent Office is 571-273-8300. For non-official communications, the examiner's personal fax number is 571-273-3166 and the examiner's e-mail address is kevin.harper@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For more information about the PAIR system, see portal.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin C. Harper/

Primary Examiner, Art Unit 2616

July 5, 2008